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TRANSCRIPT OF PROCEEDINGS

JUN 17 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

IN THE MATTER OF:

TRINITY BROADCASTING OF FLORIDA, INC.  
and  
GLENDALE BROADCASTING COMPANY

MM DOCKET NO. 93-75

Miami, Florida

DATE OF CONFERENCE: June 8, 1993

VOLUME: I

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In the Matter of:

TRINITY BROADCASTING OF FLORIDA  
and  
GLENDALE BROADCASTING COMPANY  
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MM DOCKET NO. 93-75

The above-entitled matter came on for a pre-hearing  
conference pursuant to Notice before Judge Chachkin,  
Administrative Law Judge, at 2000 L Street, N.W., Washington,  
D.C., 20554, in Courtroom 3, on Tuesday, June 8, 1993 at

1 For Spanich American League Against Discrimination:

2 DAVID HONIG, Esquire  
3 1800 N.W. 187th Street  
4 Miami, Florida 33056

5 For Mass Media Bureau:

6 JAMES SHOOK, Esquire  
7 GARY P. SCHONMAN, Esquire  
8 2025 M Street, N.W.  
9 Suite #7212  
10 Washington, D.C. 20554  
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25	Conference Began: 9:00 a.m. Conference Ended: 9:45 a.m.

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P R O C E E D I N G S

JUDGE CHACHKIN: On the record. This proceeding concerns applications -- an application by Trinity Broadcasting of Florida, Inc., for renewal of its license of Station WHFT-TV in Miami, Florida, and a competing application of Glendale Broadcasting Company for the same frequency.

There are also a number of parties which have been named by the Commission. May I have appearances on behalf of the parties. On behalf of Trinity Broadcasting of Florida, Inc.?

MR. MAY: Yes, sir, Your Honor, Colby M. May.

MR. EMMONS: I'm Nathaniel F. Emmons.

MR. TOPEL: Howard Topel.

MR. DUNNE: And Joseph E. Dunne, III.

JUDGE CHACHKIN: On behalf of Glendale Broadcasting Company?

MR. COHEN: Lewis I. Cohen and John J. Schauble.

JUDGE CHACHKIN: On behalf of the Chief Mass Media Bureau?

MR. SHOOK: James Shook and Gary Schonman.

JUDGE CHACHKIN: On behalf of Trinity Christian Center of Santa Ana, Inc., doing business as Trinity Broadcasting Network?

MR. MAY: Again, Your Honor, Colby M. May.

MR. EMMONS: Nathaniel F. Emmons.

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1 MR. TOPEL: Howard Topel.

2 MR. DUNNE: Joseph E. Dunne, III.

3 JUDGE CHACHKIN: On behalf of National Minority T.V.,  
4 Inc.?

5 MR. MAY: Once again, Your Honor, Colby M. May.

6 MR. EMMONS: Nathaniel F. Emmons.

7 MR. TOPEL: Howard Topel.

8 MR. DUNNE: Joseph E. Dunne, III.

9 JUDGE CHACHKIN: And on behalf of Spanish American  
10 League Against Discrimination.

11 MR. HONIG: David Honig, Your Honor.

12 JUDGE CHACHKIN: In accordance with my pre-hearing  
13 order, which was released April 21st, the parties have  
14 submitted a joint report. And I propose to use that joint  
15 report to discuss further procedural dates.

16 The joint report proposed a May 28th date for the  
17 parties to file the stipulation, which identifies all  
18 categories of documents under the standard comparative issue,  
19 excluding TBF's claim of renewal expectancy, which they have  
20 agreed with would be produced.

21 I did receive a stipulation, which to say the least is  
22 very brief, and seems to consist of very little. Is that all  
23 the parties are able to stipulate to?

24 MR. MAY: Yes, sir, Your Honor, we met in accordance  
25 with your pre-hearing order, and at that point in time, those

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1 | were the only document and categories of documents that we  
2 | could agree to. We then followed with the requirement that  
3 | document production in the form of requests be filed then on  
4 | June 7, which was yesterday, Your Honor, and that has taken  
5 | place.

6 | JUDGE CHACHKIN: Did Glendale file any request for  
7 | production of documents under comparative issue?

8 | MR. COHEN: Yes, sir.

9 | JUDGE CHACHKIN: It did?

10 | MR. COHEN: Under comparative issue?

11 | JUDGE CHACHKIN: Or renewal expectancy?

12 | MR. COHEN: Yes, sir.

13 | JUDGE CHACHKIN: When was that filed, I haven't seen a  
14 | copy of it?

15 | MR. COHEN: Yesterday, Your Honor, they were delivered  
16 | to your -- of course they're not -- I'm reminded under these  
17 | rules, under the new rules, you do not receive the request for  
18 | production of documents, Mr. Schauble reminds me, I was in  
19 | error.

20 | JUDGE CHACHKIN: Who gets them?

21 | MR. COHEN: The procedure was changed, and I'm always  
22 | confused. Do you recall, Your Honor, under the old  
23 | procedure --

24 | JUDGE CHACHKIN: Wait a minute, wait a minute.

25 | MR. COHEN: -- you filed a motion for --

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1 JUDGE CHACHKIN: The procedure was changed with respect  
2 to competing applications for a new frequency. The  
3 procedure is that procedure which has been found to



1 JUDGE CHACHKIN: Now, your view is that under A, you  
2 filed the request directly with the parties, instead of filing  
3 with the Judge?

4 MR. SCHAUBLE: That's how we interpreted it, Your  
5 Honor.

6 JUDGE CHACHKIN: What's the Bureau's view on this?

7 MR. SHOOK: Your Honor, we had also filed document  
8 requests and had received document requests not -- we have  
9 received copies of document requests that had been submitted  
10 upon the various other parties. We intend to have Your Honor  
11 receive a courtesy copy of our request, but that was how we  
12 put it.

13 MR. COHEN: And we have no objection, Your Honor, we'll  
14 be glad to send --

15 JUDGE CHACHKIN: Well, no, I have --

16 MR. COHEN: -- to give you a copy, we're not trying to  
17 hide it from you at all.

18 JUDGE CHACHKIN: I understand. If I'm in error as to  
19 the new procedure. I noticed that Trinity did file a motion  
20 or a request for production. No, I guess it filed the request  
21 to Glendale Broadcasting Company.

22 MR. COHEN: I thought we had agreed to follow the same  
23 procedure at our meeting.

1 production of documents, we did style it as a request for  
2 production of documents, and we did provide only a courtesy  
3 copy to Your Honor, it wasn't intended that it would be any  
4 different procedure than is otherwise provided for.

5 JUDGE CHACHKIN: No, no, let me --

6 MR. MAY: And I'd be glad to --

7 JUDGE CHACHKIN: No, no, there's no need to. I was  
8 confused with the standard document production order which  
9 does apply -- doesn't apply to renewal applicants.

10 MR. COHEN: That's our view, that's our view, Your  
11 Honor.

12 JUDGE CHACHKIN: But you're right, that the rules do  
13 provide an A-1, and it need not be filed with the Presiding  
14 Officer.

15 MR. COHEN: But if you wish a courtesy copy, we'd be  
16 glad to get one to you.

17 JUDGE CHACHKIN: Well, I think it would be useful to  
18 get a courtesy copy.

19 MR. COHEN: You'll have it by the end of business  
20 today.

21 JUDGE CHACHKIN: Because there may be, I assume there  
22 is still a provision for objections of some kind.

23 MR. COHEN: Well, what happens, Your Honor, as I  
24 understand the rule is the parties then go back and forth and  
25 then ultimately you rule when there are disputes, there's a

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1 procedure in the rule that works out that a motion to compel  
2 is filed.

3 JUDGE CHACHKIN: Well, that's why --

4 MR. COHEN: And then you ultimately would be person  
5 that decides what documents will be produced if the parties  
6 can't agree.

7 JUDGE CHACHKIN: Well, that's why it's essential, it  
8 seems to me, that I get a copy of the request.

9 MR. COHEN: You'll have it today.

10 JUDGE CHACHKIN: So if there is a dispute, I will have  
11 it before me, I will be able to see what it's all about.

12 MR. COHEN: You'll have it today.

13 JUDGE CHACHKIN: All right. Did your request for  
14 production of documents include material relating to renewal  
15 expectancy?

16 MR. COHEN: Yes, sir. Our request, the one that my  
17 client filed, Your Honor, dealt with renewal expectancy and  
18 the special issues. And then we, as Mr. Colby stated we had  
19 an agreement on much of the material under the standard  
20 comparative issue and to the extent that we disagreed then Mr.  
21 Colby served on my client yesterday a request for documents  
22 under the standard comparative issue.

23 JUDGE CHACHKIN: Well, I noticed that I received a copy  
24 today of request for production of documents filed by the  
25 Spanish American League Against Discrimination, --

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1 MR. COHEN: That's a different matter.

2 JUDGE CHACHKIN: -- which was directed to me and  
3 presumably should be directed to TBF, is that --

4 MR. HONIG: That's correct, it was incorrectly  
5 captioned and it was served on everyone.

6 JUDGE CHACHKIN: All right. So this is really a  
7 request of TBF, which I don't act on at this stage.

8 MR. HONIG: That's right.

9 MR. MAY: And we did receive that yesterday by a fax  
10 transmittal, Your Honor.

11 JUDGE CHACHKIN: All right. Did the Bureau file any  
12 requests?

13 MR. SHOOK: Yes, we did, Your Honor.

14 JUDGE CHACHKIN: You did?

15 MR. SHOOK: With respect to the special issues we've  
16 sent our request to Trinity and to the National Minority T.V.

17 JUDGE CHACHKIN: Now as far as stipulations are  
18 concerned, I notice that the stipulations only pertain to  
19 limited -- are limited to the comparative issue. The parties  
20 propose to reach any stipulations regarding the special  
21 issues, and renewal expectancy?

22 MR. COHEN: We're hopeful.

23 JUDGE CHACHKIN: Is there any procedure been establish  
24 of which to sit down and talk about stipulations?

25 MR. COHEN: Yes, we're -- I thought we had a very

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1 amicable meeting, Your Honor, and we're meeting again on  
2 Friday to further review the situation, now that we've  
3 exchanged our request for production of documents and I think  
4 there's every intention on my client's part and I suppose Mr.  
5 May can speak for his client, to see -- to try to stipulate to  
6 much of the renewal expectancy material. I mean I would hope  
7 that we would have a procedure where virtually all of that  
8 material, that would come in under, or not virtually, but much  
9 of the evidence would come in under a stipulated basis.

10 Now, obviously I can't, you know, commit to that since  
11 I haven't seen it. But that's my --

12 MR. MAY: Your Honor, as outlined in the joint report  
13 that all the parties submitted to Your Honor on the 28th, we  
14 did indicate that again yesterday June 7 would be the day for  
15 final requests for documents, which all parties have been  
16 acknowledged that they have done, and then we would meet again  
17 this Friday, on June 11, and at that meeting we would discuss  
18 the request for documents that the parties submitted to each  
19 other, and we would agree upon schedules for filing objections  
20 to those requests. We would agree upon those documents that  
21 could be produced and within what time frame, as well as try  
22 to reach agreement on the filing of notices of depositions  
23 under the standard comparative issue, which would include the  
24 incumbent licensee, Trinity Broadcasting of Florida's claim to  
25 a renewal expectancy, as well as the already designated

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1 special issues.

2           We would then follow that, Your Honor, as again  
3 included in the report that was filed with a further report on  
4 June 16, which would then memorialize the agreements that were  
5 reached and the further procedures agreed upon, and we would  
6 then request, depending of course, on your schedule, sir, a  
7 further pre-hearing conference so that we would then be able  
8 to complete the record as to those items which had been agreed  
9 upon.

10           JUDGE CHACHKIN: Now, what does this mean, the June  
11 25th date, that only applies to the material which has been  
12 described on the stipulation, the 28th, it doesn't apply to  
13 documents, other documents?

14           MR. MAY: That's correct, Your Honor.

15           JUDGE CHACHKIN: Well, when do the parties intend to  
16 supply documents?

17           MR. COHEN: Well, you see the burden here falls on  
18 Trinity more than our client, and under the special issues we  
19 requested, I think 50 categories of issues -- of documents,  
20 rather. And so Trinity will then be in a position to assess  
21 which, you know, how long it will take them to provide those  
22 documents and that was the reason we've set up this schedule,  
23 because at the time we met, Trinity did not yet have the  
24 request for production of documents, so it didn't know the  
25 universe of documents under the special issues.

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1           It's the special issues that are the ones that are  
2 going to require the time. The documents under the standard  
3 comparative issue are very relatively easy to provide, Your  
4 Honor.

5           JUDGE CHACHKIN: Now, what does this mean, that the  
6 parties are going to agree on a schedule for the following  
7 objections to the document request in the production of  
8 documents, doesn't the rule specify the time frame?

9           MR. COHEN: Well --

10          JUDGE CHACHKIN: Why are we setting up this long  
11 convoluted procedure?

12          MR. COHEN: Well, they do, Your Honor, the reason for  
13 that is, and this was -- and Trinity should be speaking to  
14 this, but I'm supportive of it. Their point was that if we --  
15 if we request 50 categories of documents and they don't know  
16 how long it will take them in order to respond to the request  
17 of the production, but --

18          JUDGE CHACHKIN: No, we're not talking about  
19 production, we're talking about objections.

20          MR. COHEN: I think -- Let Mr. May speak to that.

21          JUDGE CHACHKIN: It seems that there are legal  
22 objections, there's no need for a long period of time to state  
23 those objections, and whether rules wouldn't apply.

24          MR. MAY: Your Honor, we were doing this in the hope of  
25 expediting matters, because there is going to be a huge

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1 quantity of material particularly under the specialty issues,  
2 and it would take some time to review it, and the hope was  
3 that we'd be able to review some material, stipulate as to  
4 that which we could clearly produce without a claiming a  
5 privilege for, and then go on and make the objections as to  
6 only those distilled out matters to which controversies  
7 remain. Rather than being put into a position where you had  
8 to make general objections by a date certain, and then begin  
9 to hammer the process out.

10           We honestly felt that it would expedite matters, and  
11 make the procedures proceed more smoothly. And for an  
12 example, if I could just look at the request for production  
13 which was submitted by the Spanish American League Against  
14 Discrimination.

15           They have requested for a period that begins from  
16 January 1, 1980, and continuing currently among many other  
17 documents, all canceled checks, receipts, vouchers, invoices  
18 and other documentary evidence of payments by Trinity with  
19 regard to construction and operation of various facilities  
20 around the country.

21           With all due respect, Your Honor, that's going to take  
22 a huge period of time to review it and to determine which  
23 portions we can stipulate to and perhaps work out with Mr.  
24 Honig, and his client. And for that reason, we'd propose the  
25 procedures that we had.

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1 MR. SHOOK: Your Honor, on behalf of the Bureau, I can  
2 tell you that our document request to Trinity and National  
3 Minority T.V. is almost as expansive and I'm sure will also  
4 take quite a bit of time on their part.

5 We have received a certain number of documents already  
6 as a consequence of the pre-hearing work that went into this  
7 case. But we do not know, and I'm sure they do not know at  
8 this point, whether what we had asked for previously covers  
9 everything that we're asking for now.

10 JUDGE CHACHKIN: What I'm concerned is that we're going  
11 to have a situation here where Trinity may take a month or  
12 more to look for these documents and then make a decision to  
13 supply some, and not supply others, and then we'll have a  
14 motion to compel and that will take another month to deal  
15 with. So we'll be in the middle of winter before we even get  
16 to talking about procedural dates, and that's something I'm  
17 not going to permit.

18 So there's got to be some time frame that all this has  
19 to take place within, and what concerns me is that everything  
20 is open ended here, and there's no time frame.

21 MR. MAY: Your Honor, the reason that we tried to break  
22 it out so that yesterday would be the date for filing the  
23 requests, so we'd know how sort of expansive the horizon was,  
24 is then we could move into the June 11 meeting and try to make  
25 those dates as to when we could produce what categories of

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1 documents, and again trying to reach a position where we  
2 stipulate as to those that can be produced and when and  
3 possibly as early as possible be produced, rather -- and get  
4 those out of the way rather than deal with some of the more  
5 complicated issues involving perhaps privileges and the like.

6 MR. COHEN: Your Honor, I think at the June -- as I --  
7 as we've asked you in our document, we've asked you to call a  
8 pre-hearing conference as soon as possible after June 16th. I  
9 believe at that conference, which is just two weeks from now,  
10 we'll be in a position to propose dates to you. Solid dates.  
11 For the hearing and for the depositions. And I would ask your  
12 indulgence to give us two more weeks to try to work it out.  
13 If you then think that we've been tardy, and we haven't been  
14 as prompt as we should, then I'm sure you'll impose another  
15 schedule on us. But we're -- I would ask you to give us that  
16 ~~push time~~ And I think we'll have dates that are prompt and

1 certainly not fruitful to have a deposition until you have the  
2 document.

3 JUDGE CHACHKIN: That may be so, but I don't think  
4 there's any need, as far as I know, to be gathering the  
5 documents, that it would take four months to do so.

6 MR. COHEN: Well, that was Trinity's concern, and I  
7 think Trinity should speak to that, Your Honor.

8 JUDGE CHACHKIN: All right. Where did this date  
9 October come from for depositions? Then we're talking about a  
10 hearing next year. I don't have that in mind, frankly.

11 MR. MAY: Well, at our meeting, Your Honor, again, it  
12 was uncertain as to the scope of the documents that all  
13 parties would be requesting, not only under the specialty  
14 issues, but under the rule expectancy issue. And I would  
15 quickly segregate out the difference between the two, I think  
16 under the renewal expectancy in some ways, virtually all of  
17 that material can be brought forward and produced, I think in  
18 a more expedited manner.

19 But again, we're talking about a huge amount of  
20 material, and it's just going to take some time, Your Honor.  
21 With regard to the specialty issues, again the scope of  
22 matters going back to 1980, to the present, you know, 13  
23 years, and looking through checks and invoices and price  
24 lists, and leases, and vouchers and all of the things that  
25 have been requested. With all due respect, Your Honor, it's

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1 just flat out going to take some time, and we will work and be  
2 as diligent as we can. But I think it would have been  
3 unrealistic and we might have created down line delays, in  
4 having to seek further requests for setting off dates, and  
5 doing other items, when we've tried to put forward a procedure  
6 which would allow us to come to some stipulations and to make  
7 it happen as quick as we possibly can.

8 JUDGE CHACHKIN: Well, let me, I mean the parties can  
9 work out the dates, but let me tell you the hearing will  
10 commence no later than November 29th. Now, that gives the  
11 parties, it seems to me, sufficient time to produce documents,  
12 to take depositions and do whatever else the parties have to  
13 do. And work within that time frame.

14 MR. MAY: Your Honor, could I also just point out that  
15 with regard to the depositions and the scope of them, very  
16 realistically I don't think that Glendale or any of the other  
17 parties to the proceeding are going to know exactly who they  
18 want to depose until the documents have been produced and  
19 we've had an opportunity to go through them and present them.  
20 And again that's the reason that we've tried to go ahead and  
21 put as much, administratively and procedurally up front,  
22 worked out together before we sort get into the position of  
23 say "By this date certainly it has to be done and the like."

24 JUDGE CHACHKIN: Well, as I have just indicated, the  
25 parties can work around those dates, they have five months,

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1 almost five months to get the documents, to exchange exhibits  
2 and do everything else that has to be done, with the  
3 understanding that the hearing will commence no later than  
4 November 29th. That seems to me gives the parties sufficient  
5 time to take care of the pre-hearing aspects. Does the Bureau  
6 feel that's insufficient or what time is needed or anyone else  
7 feel, that that's not sufficient time?

8 MR. SHOOK: Your Honor, we've made a preliminary review  
9 of the materials that, you know, have previously been  
10 submitted by Trinity and the related entities. And you know,  
11 during our discussions it did come up, that we had to be aware  
12 that we simply couldn't have an open ended schedule relative  
13 to the exchange of documents and pre-trial preparation. And  
14 while we didn't envision a particular hearing date at that  
15 time other the one I believe that was mentioned for January,  
16 you know, it was understood that the concerns of Trinity, et  
17 al you know might have to be subordinated to Your Honor's

1 this might take.

2 JUDGE CHACHKIN: Well, as I notice here, the burden of  
3 proceeding is on Glendale. It's not on Trinity.

4 MR. COHEN: Your Honor, but the documents --

5 JUDGE CHACHKIN: Well, I understand that.

6 MR. COHEN: This is going to be a document driven case,  
7 and the documents come from Trinity. We could meet that  
8 November 29 date, but I'm not speaking as an advocate now, I'm  
9 speaking as an officer of the Commission, Your Honor. The  
10 November 29 date is a date my client could live with. The  
11 point is, can we have the documents and then we can schedule  
12 the depositions and then have the hearing by November 29th?

13 JUDGE CHACHKIN: According to the parties joint report,  
14 the parties were speaking about depositions in September and  
15 October. If they go ahead with depositions in September, the  
16 November 29th date should be no problem, it would seem to me.

17 MR. COHEN: Well, what I --

18 JUDGE CHACHKIN: So presumably the parties had reached

1 again as we propose to do, on June 11th, which is Friday, take  
2 into account the admonition you've given us, and then when you  
3 hold that next pre-hearing conference, which we ask you to  
4 hold, then firm up the dates, in other words, I would wonder  
5 if you would not freeze that November 29 date so much, as give  
6 that as a day that we now know what you have in mind, and now  
7 let -- then let us come back to you?

8 JUDGE CHACHKIN: Well, I'm -- the parties can go ahead  
9 with their June 11 date and presumably when they submit their  
10 June 16th report, they're going to give me a schedule, a  
11 complete schedule of when the documents are going to be  
12 exchanged, and when I assume all the other procedures  
13 including the deposition date and the hearing date. And what  
14 I've said is I would expect, barring some exceptional good  
15 cause, that the hearing date would be no later than November  
16 29th.

17 Particularly, Mr. Cohen, since you have the burden, and  
18 you say you have no problem of meeting that date.

19 MR. COHEN: Because the burden doesn't fall on my  
20 client to produce the document.

21 JUDGE CHACHKIN: I understand that, but then we're  
22 talking about discovery, and since the parties are talking  
23 about September and October for depositions, it would seem  
24 that the parties had in mind that they would have the  
25 documents available so that we'd have it ready for

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1 depositions. So I'll just wait and see what the parties give  
2 to me on June 16th, and if there is a need for further  
3 conference, I'll call it at that point.

4 But I'm indicating to the parties that where I'm  
5 looking, I'm looking for a hearing date of no later than the  
6 29th of November.

7 MR. COHEN: Yes, sir.

8 MR. MAY: Your Honor, could I just add --

9 JUDGE CHACHKIN: Yes.

10 MR. MAY: -- one further complicating factor, and that  
11 is that the current return date on the issue enlargement  
12 requests that have been put forward, will not be until the  
13 middle of this month, and then Your Honor is going to have to  
14 rule on those, and that would just further complicate the  
15 entire discovery matter, and just the huge quantity of  
16 material and documents and all of that that has to go forward.  
17 So we would just ask that we be given the fair shake to go  
18 ahead and try to stipulate out as much as we could. But I  
19 have to say, Your Honor, I do believe that November 29 is a  
20 tremendous press, and may frankly be most difficult if not  
21 virtually impossible for, you know, National Minority and the  
22 Trinity Organization to go ahead and meet in the face of the  
23 huge scope of document requests.

24 JUDGE CHACHKIN: Well, there's no sense in further  
25 discussion of it, I will await the parties report. It seems

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1 to me as I've indicated that parties envision that the  
2 documents would be produced to permit discovery, permit  
3 depositions to go forward in the months September and October.

4 I don't know to what extent these documents -- the  
5 scope of these documents, since I have not seen the document  
6 requests. So I'm at a disadvantage there. And I will get  
7 copies apparently of all the document requests from the Bureau  
8 and from Mr. Cohen, --

9 MR. COHEN: Yes, sir.

10 JUDGE CHACHKIN: -- so that I will see what the scope  
11 is what we're talking about here, and to be in a position to,  
12 if we have a further pre-hearing conference, if there are any  
13 disputes to resolve them, if I can, at that time, orally if  
14 necessary to move this thing ahead.

15 So I -- if we do hold the further pre-hearing  
16 conference after the 16th, to the extent possible, if there  
17 are objections to the document requests, which the parties are  
18 aware of at that time, I would expect to go into those  
19 documents, or those objections and make some oral ruling on  
20 it.

21 Is there anything else to discuss besides this  
22 procedural schedule that the parties want to bring up at this  
23 time about the scope of the issues or anything?

24 MR. COHEN: I have nothing, Your Honor.

25 MR. HONIG: I have one question, Your Honor.

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